

AMENDED IN ASSEMBLY APRIL 15, 2002

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 2274

**Introduced by Assembly Member ~~Keeley~~ Members Keeley and
Wyland**

February 20, 2002

~~An act to amend Section 5090.19 of the Public Resources Code, relating to off-highway vehicle recreation.~~ *An act to amend Sections 5010, 5090.01, 5090.06, 5090.11, 5090.15, 5090.17, 5090.19, 5090.22, 5090.23, 5090.24, 5090.32, 5090.34, 5090.35, 5090.36, 5090.43, 5090.44, 5090.50, 5090.53, 5090.60, 5090.61, and 5090.64 of, to amend the heading of Article 5 (commencing with Section 5090.50) of Chapter 1.25 of Division 5 of, to amend and renumber Sections 5090.45 and 5090.47 of, to add an article heading to Chapter 1.25 of Division 5 immediately preceding Section 5090.44 of, to repeal Sections 5090.13, 5090.25, 5090.33, 5090.40, 5090.52, 5090.55, 5090.56, and 5090.62 of, and to repeal and add Section 5090.12 of, the Public Resources Code, to amend Section 8352.8 of the Revenue and Taxation Code, and to amend Sections 38001, 38007, 38026, 38225, 38231.5, 38240, 38286, 38370, and 42204 of, and to repeal Section 38240.1 of, the Vehicle Code, relating to off-highway motor vehicle recreation.*

LEGISLATIVE COUNSEL'S DIGEST

AB 2274, as amended, Keeley. Off-highway vehicle recreation ~~commission; membership.~~

The existing Off-Highway Motor Vehicle Recreation Act of 1988 requires the Division of Off-Highway Motor Vehicle Recreation in the Department of Parks and Recreation to implement and administer the

Off-highway Motor Vehicle Recreation Program, which provides for opportunities for off-highway motor vehicle recreation at specified areas throughout the state.

The act requires the Secretary of the Resources Agency to prepare and submit an environmental review on the implementation of the act to the Assembly Committee on Natural Resources, the Senate Committee on Natural Resources and Wildlife, and the Committee on Appropriation of each house every 5 years, and requires the Legislature to appropriate from the Off-Highway Vehicle Trust Fund an amount equal to the cost of preparing that review.

This bill would delete those provisions, and would require that the Division of Off-Highway Motor Vehicle Recreation in the department, not later than January 1, 2005, prepare and submit to the Legislature a report that identifies the extent to which nonmotorized recreationists contribute fuel tax revenues to the Off-Highway Motor Vehicle Recreation Program.

The bill would prescribe changes in the groups and organizations from which nominees to the Off-Highway Motor Vehicle Recreation Commission may be appointed, and would revise some of the functions and duties of the division with respect to the implementation and administration of the act, as specified. The bill would require the division to comply with various new reporting requirements, and to assist in the designation of corridors for a California Statewide Motorized Trail.

The existing act authorizes the issuance of grants to cities, counties, and appropriate districts for the planning, acquisition, development, construction, maintenance, administration, operation, and conservation of trails, trailheads, areas, and other facilities for the use of off-highway motor vehicles, as provided.

This bill would make various changes with respect to the procedures for grant application and funding, and would also authorize the issuance of grants to educational institutions and nonprofit organizations for certain projects that are designed to sustain a managed off-highway motor vehicle recreation program.

The existing act requires that specified funds allocated to the Off-Highway Motor Vehicle Trust Fund from fuel tax revenues and required to be used by the division, or by cities, counties, or appropriate districts, or by agencies of the United States, solely for activities on lands in the off-highway motor vehicle recreation system.



This bill would revise that requirement to, instead, require that 30% of those revenues be used for restoration, as defined, and 70% of those revenues be used for specified conservation and enforcement activities, and for the construction of physical barriers and other means of traffic control regulating the use of off-highway motor vehicles.

Existing law requires the Department of the California Highway Patrol to prepare a course of instruction in off-highway motor vehicle safety and operation and principles of environmental preservation, as provided.

This bill would require the division to adopt those courses by January 1, 2005, and to consult with the Department of the California Highway Patrol and other public and private agencies or organizations in connection with the preparation of those courses.

Existing law authorizes the use of specified funds collected from off-highway motor vehicle license fees for reconstructing and repairing damage caused by the use of off-highway motor vehicles on property where the operation of those vehicles is prohibited by federal, state, or local law.

This bill would repeal those provisions. The bill would also impose various new requirements relating to noise emissions from off-highway motor vehicles, as provided.

Existing law requires that 50% of the revenues from fines and forfeitures collected for violations of specified vehicle laws be deposited in the fund for expenditure for the purposes of the act.

This bill would, instead, require that all of those revenues from fines and forfeitures be deposited in the appropriate fund in the county where the violation occurred, and be used for enforcing laws related to the operation of off-highway motor vehicles.

~~Existing law requires the members of the Off-Highway Motor Vehicle Recreation Commission to elect a chairman from their number who is required to serve as chairman for one year and until his or her successor is elected.~~

~~This bill would make a technical, clarifying change in those provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~—yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 **SECTION 1.** ~~Section 5090.19 of the Public Resources Code~~
2



1 SECTION 1. *Section 5010 of the Public Resources Code is*
2 *amended to read:*

3 5010. (a) The department may collect fees, rents, and other
4 returns for the use of any state park system area, the amounts to be
5 determined by the department. The department may accept a credit
6 card as a method of payment for fees collected through the
7 department's reservation system. Any contract executed by the
8 department with credit card issuers or draft purchasers shall be
9 consistent with Section 6159 of the Government Code.
10 Notwithstanding Title 1.3 (commencing with Section 1747) of
11 Part 4 of Division 3 of the Civil Code, the department may impose
12 a surcharge in an amount to cover the cost of providing the
13 reservation service, including reimbursement for any fee or
14 discount charged by the credit card issuer.

15 (b) All revenues received by the department during each fiscal
16 year shall be paid into the State Treasury to the credit of the State
17 Parks and Recreation Fund, which is hereby created.

18 (c) Notwithstanding subdivision (b), all revenues received by
19 the department from the state vehicular recreation area and trail
20 system shall be paid into the State Treasury to the credit of the
21 Off-Highway Vehicle *Trust* Fund, as required by Section 38225 of
22 the Vehicle Code.

23 (d) All revenues received by the department for the entry or
24 launching of boats shall be paid into the State Treasury to the credit
25 of the State Parks and Recreation Fund and shall be used for
26 boating safety, enforcement, operation, and maintenance
27 programs of the department.

28 (e) On July 1, 1980, all existing balances, including
29 unappropriated balances and encumbered and unencumbered
30 balances, of the following funds and accounts shall be transferred
31 to the State Parks and Recreation Fund:

32 (1) Park and Recreation Revolving Account (Section 5098,
33 Public Resources Code, as added by Chapter 1222, Statutes of
34 1972).

35 (2) The Resources Protection Account (Section 8600, Public
36 Resources Code, as added by Chapter 1052, Statutes of 1969).

37 (3) Collier Park Preservation Fund (Section 5010, Public
38 Resources Code, as added by Chapter 1502, Statutes of 1974).

39 (4) San Francisco Maritime State Historic Park Account
40 (Section 2, Chapter 1764, Statutes of 1971).

(5) State Park Highway Account, Bagley Conservation Fund (Section 2107.7, Streets and Highways Code, as added by Chapter 1032, Statutes of 1973).

(6) All funds received by the department pursuant to Division 21 (commencing with Section 31000).

(7) Hostel Facilities Use Fees Account (Section 2, Chapter 265, Statutes of 1974).

(8) All funds, other than expended funds, previously appropriated to the department from the Bagley Conservation Fund.

(f) On and after July 1, 1980, all funds, other than those specified in subdivisions (g) and (h), in the State Parks and Recreation Fund shall be available for expenditure for state park planning, acquisition, and development projects, operation of the state park system, and resource and property management and protection, when appropriated by the Legislature.

(g) All funds in the State Parks and Recreation Fund which had previously been appropriated and have become encumbered, may be used, without further appropriation, for liquidation of those encumbrances, upon the same terms and conditions as made by those previous appropriations.

(h) The balance of any unencumbered funds in the State Park Highway Account in the Bagley Conservation Fund shall be transferred to the State Parks and Recreation Fund and shall be available for expenditure as provided in subdivisions (b) and (c) of Section 2107.7 of the Streets and Highways Code.

(i) All funds received by the Department of Parks and Recreation from the auction sales conducted pursuant to Section 2080.6 of the Civil Code shall be paid into the State Treasury to the credit of the State Parks and Recreation Fund and shall be used for training department employees in the Ranger/Lifeguard classification, including, but not limited to, resource management and protection, law enforcement, interpretation, first aid, cardiopulmonary resuscitation, and medical technical training.

SEC. 2. Section 5090.01 of the Public Resources Code is amended to read:

5090.01. This chapter shall be known and may be cited as the Off-Highway Motor Vehicle Recreation Act of ~~1988~~ 2003.

SEC. 3. Section 5090.06 of the Public Resources Code is amended to read:

1 5090.06. "Fund" means the Off-Highway Vehicle Trust
2 Fund created by subdivision ~~(b)~~(c) of Section 38225 of the Vehicle
3 Code.

4 *SEC. 4. Section 5090.11 of the Public Resources Code is*
5 *amended to read:*

6 5090.11. ~~"Rehabilitation"~~ "Restoration" means, upon
7 closure of the unit or any portion thereof, the restoration of land
8 to the contours, the plant communities, and the plant covers
9 comparable to those on surrounding lands or at least those ~~which~~
10 *that* existed prior to off-highway motor vehicle use.

11 *SEC. 5. Section 5090.12 is added to the Public Resources*
12 *Code, to read:*

13 5090.12. "Grant program" means the local assistance grant
14 program and the cooperative agreement program.

15 *SEC. 6. Section 5090.12 of the Public Resources Code is*
16 *repealed.*

17 ~~5090.12. (a) The Secretary of the Resources Agency shall~~
18 ~~prepare and submit an environmental review on the~~
19 ~~implementation of this chapter to the Assembly Committee on~~
20 ~~Natural Resources, the Senate Committee on Natural Resources~~
21 ~~and Wildlife, and the Committee on Appropriations of each house~~
22 ~~on or before January 1, 1998, and every five years thereafter.~~

23 ~~(b) The Legislature shall appropriate, from the Off Highway~~
24 ~~Vehicle Trust Fund, created pursuant to Section 38225 of the~~
25 ~~Vehicle Code, an amount equal to the cost of preparing the review~~
26 ~~required by subdivision (a).~~

27 *SEC. 7. Section 5090.13 of the Public Resources Code is*
28 *repealed.*

29 ~~5090.13. It is the intent of the Legislature that funds for the~~
30 ~~establishment of the Hume Canyon Off Highway Vehicle Park in~~
31 ~~Los Angeles County, to the extent that funds are available, be~~
32 ~~provided in the annual Budget Act appropriation from the~~
33 ~~Off Highway Motor Vehicle Fund.~~

34 *SEC. 8. Section 5090.15 of the Public Resources Code is*
35 *amended to read:*

36 5090.15. (a) There is in the department the Off-Highway
37 Motor Vehicle Recreation Commission, consisting of seven
38 members, three of whom shall be appointed by the Governor, two
39 of whom shall be appointed by the Senate Committee on Rules,

1 and two of whom shall be appointed by the Speaker of the
2 Assembly.

3 ~~In~~

4 (b) In order to be appointed to the commission, a nominee shall
5 represent one or more of the following groups:

6 ~~(a)~~

7 (1) Off-highway vehicle recreation ~~groups~~ *interests*.

8 ~~(b)~~

9 (2) Biological *or soil* scientists.

10 ~~(c)~~

11 (3) Groups or associations of predominantly rural landowners.

12 ~~(d) Soil scientists.~~

13 (4) *Law enforcement*.

14 ~~(e)~~

15 (5) Environmental protection organizations.

16 ~~(f)~~

17 (6) *Nonmotorized recreationist interests*.

18 *It is the intent of the Legislature that appointees to the*
19 *commission represent all of the groups delineated in paragraphs*
20 *(1) to (6), inclusive, to the extent possible.*

21 (c) Whenever any reference is made to the State Park and
22 Recreation Commission pertaining to a duty, power, purpose,
23 responsibility, or jurisdiction of the State Park and Recreation
24 Commission with respect to the ~~State Vehicular Recreation Area~~
25 ~~and Trail System~~ *state vehicular recreation areas*, as established
26 by this chapter, it shall be deemed to be a reference to, and to mean,
27 the Off-Highway Motor Vehicle Recreation Commission.

28 ~~It is the intent of the Legislature that appointees to the~~
29 ~~commission represent all of the groups delineated in subdivisions~~
30 ~~(a) to (e), inclusive, to the extent possible.~~

31 (d) *Based on the findings in the 2004 Off-Highway Vehicle Fuel*
32 *Tax Study, the division shall, not later than January 1, 2005,*
33 *prepare and submit to the Legislature a report that identifies the*
34 *principal reasons why people are using off-road trails, as a means*
35 *of assisting in the determination of how fuel tax funds should be*
36 *expended.*

37 *SEC. 9. Section 5090.17 of the Public Resources Code is*
38 *amended to read:*

39 5090.17. (a) The terms of the members of the commission
40 shall be four years. ~~The members first appointed to the~~

1 ~~commission shall classify themselves by lot so that the terms of~~
2 ~~three members expire January 15, 1984, the terms of two members~~
3 ~~expire January 15, 1985, and the terms of two members expire~~
4 ~~January 15, 1986.~~

5 (b) ~~As vacancies occur on and after January 15, 1988,~~
6 ~~appointments~~ *Appointments* to the commission shall comply with
7 the qualifications for membership specified in Sections 5090.15
8 and 5090.16.

9 *SEC. 10. Section 5090.19 of the Public Resources Code is*
10 *amended to read:*

11 5090.19. The members of the commission shall elect a
12 ~~chairman~~ *chairperson* from their number who shall serve as
13 ~~chairman~~ *chairperson* for one year and until his or her successor
14 is elected.

15 *SEC. 11. Section 5090.22 of the Public Resources Code is*
16 *amended to read:*

17 5090.22. The ~~chairman~~ *chairperson* of the commission may
18 appoint committees composed of members of the commission and
19 prescribe the jurisdiction of each.

20 *SEC. 12. Section 5090.23 of the Public Resources Code is*
21 *amended to read:*

22 5090.23. The commission shall establish policies for the
23 *general* guidance of the director and the division regarding all
24 aspects of the system and the program.

25 *SEC. 13. Section 5090.24 of the Public Resources Code is*
26 *amended to read:*

27 5090.24. The commission has the following particular duties
28 and responsibilities:

29 (a) Be fully informed regarding all governmental activities
30 affecting the program.

31 (b) Meet ~~from time to time~~ *at least four times per year* at
32 various locations throughout the state to receive comments on the
33 implementation of the program. *Establish an annual calendar of*
34 *proposed meetings at the beginning of each calendar year.*

35 (c) Consider, upon the request of any owner or tenant, whose
36 property is in the vicinity of any land in the system, any alleged
37 adverse impacts occurring on that person's property from the
38 operation of off-highway motor vehicles and recommend to the
39 division suitable measures for the prevention of any adverse
40 impact determined by the commission to be occurring, and

1 suitable measures for the ~~rehabilitation~~ *restoration* of adversely
2 impacted property.

3 (d) Review and comment annually to the director on the
4 proposed budget of expenditures from the fund.

5 (e) Review and approve all minor and major capital outlay
6 expenditures from the fund proposed for inclusion in the budget.

7 ~~(f) Review and make recommendations, after conducting at~~
8 ~~least one public hearing, to the director on the development of a~~
9 ~~model off-highway motor vehicle recreation safety program and~~
10 ~~eligibility criteria and procedures for a safety education local~~
11 ~~assistance grant program.~~

12 ~~(g) Report biennially to the Legislature, the Governor,~~
13 ~~appropriate agencies of government, off-highway motor vehicle~~
14 ~~users and user groups, and the general public regarding the status~~
15 ~~of the program, the condition of natural and cultural resources of~~
16 ~~areas and trails receiving state off-highway motor vehicle funds,~~
17 ~~and resolution of conflicts of use in those areas and trails, and the~~
18 ~~status of off-highway motor vehicle recreation generally.~~

19 ~~The report shall also include a summary of monitoring data~~
20 ~~compiled and rehabilitative work concluded during the preceding~~
21 ~~two years. Conduct one public meeting annually, prior to the start~~
22 ~~of each grant program cycle, to collect public input concerning the~~
23 ~~program, recommendations for program improvements, and~~
24 ~~specific project needs for the system and grant program areas.~~

25 (g) Prepare and submit a program report to the Governor, the
26 Assembly Committee on Natural Resources, the Senate Committee
27 on Natural Resources and Wildlife, and the Committee on
28 Appropriations of each house on or before July 1, 2005, and every
29 two years thereafter. The report shall address the status of the
30 program and off-highway motor vehicle recreation, the results of
31 the strategic planning process completed pursuant to subdivision
32 (n) of Section 5090.32, the condition of natural and cultural
33 resources of areas and trails receiving state off-highway motor
34 vehicle funds, the resolution of conflicts of use in those areas and
35 trails, the status of, and the accomplishments of expenditures from,
36 the Conservation and Enforcement Services Account, a summary
37 of resource monitoring data compiled and rehabilitative work
38 concluded, and other relevant program-related environmental
39 issues that have arisen over the preceding two calendar years.

1 *The program report shall be adopted by the commission after*
2 *discussing its contents during two or more public hearings.*

3 *(h) The commission shall hold a public hearing in an area in*
4 *close proximity to any proposed substantial acquisition or*
5 *development project unless a hearing consistent with federal law*
6 *or regulation is held in close proximity to the proposed project.*

7 *SEC. 14. Section 5090.25 of the Public Resources Code is*
8 *repealed.*

9 ~~5090.25. The commission shall hold a public hearing in an~~
10 ~~area in close proximity to any proposed new acquisition or~~
11 ~~development project involving off-highway motor vehicles which~~
12 ~~generates significant controversy unless a hearing consistent with~~
13 ~~federal law or regulation is held in close proximity to the proposed~~
14 ~~project.~~

15 *SEC. 15. Section 5090.32 of the Public Resources Code is*
16 *amended to read:*

17 ~~5090.32. All of the following functions, duties, and~~
18 ~~responsibilities of the department shall be performed exclusively~~
19 ~~by the division. The division has the following duties and~~
20 ~~responsibilities:~~

21 ~~(a) The—planning~~ *Planning, acquisition, development,*
22 ~~construction, and conservation, and rehabilitation~~ *restoration of*
23 ~~lands in and for the system~~ *the state vehicular recreation areas.*

24 ~~(b) The—direct~~ *Direct management, maintenance,*
25 ~~administration, and operation of lands in the system and the~~
26 ~~providing of law enforcement and appropriate public safety~~
27 ~~activities~~ *state vehicular recreation areas.*

28 ~~(c) Management of the fund~~ *Provide for law enforcement and*
29 ~~appropriate public safety activities.~~

30 ~~(d) The implementation~~ *Implementation of all aspects of the*
31 ~~program.~~

32 ~~(e) Ensuring~~ *Ensure program compliance with the California*
33 ~~Environmental Quality Act (Division 13 (commencing with~~
34 ~~Section 21000)) in state vehicular recreation areas.~~

35 ~~(f) Implement the policies established by the commission.~~

36 ~~(g) Provide staff assistance to the commission.~~

37 ~~(h) Prepare and implement plans for lands in, or proposed to~~
38 ~~be included in, state vehicular recreation areas, including new~~
39 ~~state vehicular recreation areas. However, no plan shall be~~

1 *prepared in any instance specified in subdivision (c) of Section*
2 *5002.2.*

3 (i) *Conduct, or cause to be conducted, surveys and prepare, or*
4 *cause to be prepared, studies that are necessary or desirable for*
5 *implementing the program.*

6 (j) *Recruit and utilize volunteers to further the objectives of the*
7 *program.*

8 (k) *Prepare and coordinate safety and education programs.*

9 (l) *Conduct, or cause to be conducted, an annual audit of*
10 *grants and cooperative agreements, and the performance of any*
11 *recipient in expending a grant or cooperative agreement made*
12 *pursuant to Article 5 (commencing with Section 5090.50).*

13 (m) *Provide for the enforcement of Division 16.5 (commencing*
14 *with Section 38000) of the Vehicle Code and other laws regulating*
15 *the use or equipment of off-highway motor vehicles in all areas*
16 *acquired, maintained, or operated by funds from the fund;*
17 *however, the Department of the California Highway Patrol shall*
18 *have responsibility for enforcement on highways.*

19 (n) *Complete by January 1, 2005, a strategic planning process*
20 *that will identify future off-highway vehicle recreational needs,*
21 *including, but not limited to, potential off-highway vehicle parks*
22 *in urban areas to properly direct vehicle operators away from*
23 *illegal or environmentally sensitive areas. This strategic planning*
24 *process shall take into consideration, at a minimum,*
25 *environmental constraints, infrastructure requirements,*
26 *demographic limitations, and local, state, and federal land use*
27 *planning processes. The initial strategic plan shall be updated*
28 *periodically.*

29 (o) *Prepare and submit a report to the Legislature on or before*
30 *January 1, 2005, that examines the effectiveness of the current*
31 *noise standard, enforcement efforts, public outreach and*
32 *education programs, the feasibility of improving the off-highway*
33 *vehicle noise standard, and reassessment of the dates specified in*
34 *paragraph (1) of subdivision (h) of Section 38370 of the Vehicle*
35 *Code. The report shall also consider future reporting needs and*
36 *appropriate reporting intervals.*

37 SEC. 16. *Section 5090.33 of the Public Resources Code is*
38 *repealed.*

39 ~~5090.33. The division has all of the following particular~~
40 ~~duties and responsibilities:~~

1 ~~(a) The implementation of the policies established by the~~
2 ~~commission.~~

3 ~~(b) Provision of staff assistance to the commission.~~

4 ~~(c) Preparation of plans for lands in, or proposed to be included~~
5 ~~in, the system; provided, however, that no plan shall be prepared~~
6 ~~in any instance specified in subdivision (c) of Section 5002.2.~~

7 ~~(d) The conduct of surveys and the preparation of studies that~~
8 ~~are necessary or desirable for implementing the program.~~

9 ~~(e) The recruitment and utilization of volunteers to further the~~
10 ~~program.~~

11 ~~(f) The preparation and coordination of safety education~~
12 ~~programs through grants, cooperative agreements, and contracts.~~

13 ~~(g) The auditing of grants, and the performance of any~~
14 ~~applicant in expending a grant, made pursuant to Article 5~~
15 ~~(commencing with Section 5090.50).~~

16 ~~(h) Provision of the enforcement of Division 16.5~~
17 ~~(commencing with Section 38000) of the Vehicle Code and other~~
18 ~~laws regulating the use or equipment of off-highway motor~~
19 ~~vehicles in areas acquired, maintained or operated by funds from~~
20 ~~the fund; however, the Department of the California Highway~~
21 ~~Patrol shall have responsibility for enforcement on highways.~~

22 *SEC. 17. Section 5090.34 of the Public Resources Code is*
23 *amended to read:*

24 5090.34. Under the direction of the commission, the division
25 shall publish *and update periodically*, a guidebook, including the
26 text of this chapter, other laws and regulations relating to the
27 program, and *detailed* maps of areas and trails ~~for~~ in the system.
28 The guidebook may include other public areas, trails, and facilities
29 for the use of off-highway motor vehicles. The guidebook shall
30 include information regarding the responsibility of users of the
31 system and shall set forth pertinent laws, rules, and regulations,
32 including particular provisions and other information intended to
33 prevent trespass and damage to public and private property. The
34 guidebook shall be prepared at minimal cost to facilitate the
35 broadest possible distribution and ~~shall~~ *may* be offered for sale at
36 a price *only* sufficient to meet all costs of preparation, printing, and
37 distribution.

38 *SEC. 18. Section 5090.35 of the Public Resources Code is*
39 *amended to read:*

5090.35. (a) The protection of public safety, the appropriate utilization of lands in the system, and the conservation of land resources in the system are of the highest priority in the management of the system; and, accordingly, the division shall promptly repair and continuously maintain areas and trails, anticipate and prevent accelerated and unnatural erosion, and restore lands damaged by erosion to the extent possible.

(b) Notwithstanding Section 5090.23, the department, in consultation with the United States Soil Conservation Service, the United States Forest Service, the Bureau of Land Management, and the Department of Conservation shall adopt a generic soil loss standard by January 1, 1991, at least sufficient to allow ~~rehabilitation~~ *restoration* of off-highway motor vehicle areas and trails. ~~Requirements~~ *The requirements* of this chapter ~~which that~~ are dependent upon the adoption of this soil loss standard shall not become operative until the standard is adopted. The department shall also make an inventory of wildlife populations and their habitats in each area in the system and shall prepare a wildlife habitat protection program to sustain a viable species composition specific to each area, by July 1, 1989.

(c) The division shall monitor the condition of soils and wildlife habitat in each area of the system each year in order to determine whether the soil loss standards and habitat protection plans are being met.

(d) Upon a determination that the soil loss standard and habitat protection plans are not being met in any area in the system, the department shall direct the division to close temporarily and repair, to prevent accelerated erosion, that area, or portion thereof funded by the Off-Highway Vehicle *Trust* Fund, until the soil loss standard and habitat protection plans are capable of being met.

(e) Upon a determination that the soil loss standard and habitat protection plans cannot be met in any area in the system, the department shall direct the division to close that area, or any portion thereof funded from the Off-Highway Vehicle *Trust* Fund, and to reclaim and rehabilitate the area.

(f) The division may not fund trail construction unless it complies with the conservation specifications prescribed in subdivision (b). The division may not fund trail construction where conservation is not feasible.

1 SEC. 19. Section 5090.36 of the Public Resources Code is
2 amended to read:

3 5090.36. The division may enter into contracts with
4 concessionaires and *grants or* cooperative agreements with other
5 public agencies, pursuant to *laws and* procedures specified in this
6 division, for the care and maintenance of lands in the system,
7 including ~~contracts for~~ law enforcement services with public
8 agencies having ~~peace officer~~ law enforcement ~~powers~~ authority.

9 SEC. 20. Section 5090.40 of the Public Resources Code is
10 repealed.

11 ~~5090.40. (a) The system consists of areas and trails that are~~
12 ~~established primarily to provide facilities and recreational~~
13 ~~opportunities for the purposes of operating off-highway motor~~
14 ~~vehicles, as defined in Section 38006 of the Vehicle Code.~~

15 ~~(b) The system shall be developed and maintained to sustain~~
16 ~~long-term use and shall be managed in a manner that is consistent~~
17 ~~with this chapter.~~

18 SEC. 21. Section 5090.43 of the Public Resources Code is
19 amended to read:

20 5090.43. (a) State vehicular recreation areas shall be
21 established on lands where ~~topographic features and associated~~
22 *there are quality* recreational opportunities for off-highway motor
23 vehicles ~~are the important values~~ and in accordance with the
24 ~~factors specified in requirements of~~ Section 5090.35. Areas shall
25 be developed, managed, and operated for the purpose of making
26 the fullest public use of the outdoor recreational opportunities
27 present, ~~and the~~. The natural and cultural elements of the
28 environment may be managed or modified to enhance the
29 recreational experience consistent with the requirements of
30 Section 5090.35.

31 (b) ~~Lands shall be selected for acquisition~~ for state vehicular
32 recreation areas *shall be selected for acquisition* so as to minimize
33 the need for establishing sensitive areas.

34 (c) After January 1, 1988, no new cultural or natural preserves
35 or state wildernesses shall be established within state vehicular
36 recreation areas. To protect natural and cultural values, sensitive
37 areas within state vehicular recreation areas may be designated by
38 the ~~department~~ *division* if the Off-Highway Motor Vehicle
39 Recreation Commission holds a public hearing and makes a
40 recommendation therefor. These sensitive areas shall be managed

1 *by the division* in accordance with Sections 5019.71 and 5019.74,
2 which define the purpose and management of natural and cultural
3 preserves.

4 If off-highway motor vehicle use results in damage to any
5 natural or cultural values, appropriate measures shall be taken to
6 protect these lands from any further damage. These measures may
7 include the erection of physical barriers and shall include the
8 ~~rehabilitation~~ restoration of the damage to natural resources and
9 the repair of damage to cultural resources.

10 *SEC. 22. An article heading is added to Chapter 1.25 of*
11 *Division 5 of the Public Resources Code, immediately preceding*
12 *Section 5090.44, to read:*

13
14 *Article 4.5. California Statewide Motorized Trail System*

15
16 *SEC. 23. Section 5090.44 of the Public Resources Code is*
17 *amended to read:*

18 5090.44. ~~State vehicular recreation trails~~ *The division shall*
19 *assist in the designation of corridors for a California Statewide*
20 *Motorized Trail. The California Statewide Motorized Trail shall*
21 *consist of corridors which that are designated and maintained for*
22 *recreational travel by off-highway motor vehicles, which are not*
23 *generally suitable or maintained for normal travel by conventional*
24 *two-wheel drive vehicles as defined in Section 38006 of the*
25 *Vehicle Code, and which that are designated for off-highway*
26 *motor vehicle travel by the owner of, or other person or public*
27 *entity having control over, the property traversed by the trail. State*
28 ~~vehicular recreation trails~~ *corridor. Portions of the California*
29 *Statewide Motorized Trail may include lands designated and*
30 *maintained as trailheads. State vehicular recreation trails The*
31 *California Statewide Motorized Trail shall be selected and*
32 *managed in accordance with this chapter. Trails designated*
33 *pursuant to this section may be known as the California Statewide*
34 *Motorized Trail.*

35 *SEC. 24. Section 5090.45 of the Public Resources Code is*
36 *amended and renumbered to read:*

37 ~~5090.45.—~~

38 5090.37. Eminent domain shall not be exercised to acquire
39 any interest in property for a state vehicular recreation trail area,
40 the California Motorized Trail, or any grant program area or trail

1 by the ~~department~~ *division* or any public agency that has entered
2 into a *grant or* cooperative agreement with the division.

3 *SEC. 25. Section 5090.47 of the Public Resources Code is*
4 *amended and renumbered to read:*

5 ~~5090.47.~~

6 5090.65. Money in the fund shall be used to pay for the repair
7 of any boundary fence that segregates off-highway vehicle use
8 from adjoining landowners and is adjacent to an off-highway
9 vehicle site that is funded by the fund, when the fence has become
10 broken or damaged by off-highway vehicle users.

11 *SEC. 26. The heading of Article 5 (commencing with Section*
12 *5090.50) of Chapter 1.25 of Division 5 of the Public Resources*
13 *Code is amended to read:*

14
15 Article 5. Local Assistance Grants, *Grants to Nonprofit*
16 *Organizations and Educational Institutions*, and Cooperative
17 Agreements with Federal Agencies
18

19 *SEC. 27. Section 5090.50 of the Public Resources Code is*
20 *amended to read:*

21 5090.50. (a) Grants may be made to cities, counties, and
22 appropriate districts ~~for the planning, acquisition, development,~~
23 ~~construction, maintenance, administration, operation, and~~
24 ~~conservation of trails, trailheads, areas, and other facilities for the~~
25 ~~use of off-highway motor vehicles that are in accordance with~~
26 ~~local plans and any plans for off-highway motor vehicle recreation~~
27 ~~areas and trails prepared by the division and for the enforcement~~
28 ~~of laws and regulations regarding the use of off-highway vehicles~~
29 ~~within the project site.~~

30 Every applicant for a grant shall comply with the California
31 Environmental Quality Act (Division 13 (commencing with
32 Section 21000)). ~~This paragraph is declaratory of, and does not~~
33 ~~constitute a change in, existing law. if the grant applicant has~~
34 ~~approval to apply for grant funds, in the form of a resolution from~~
35 ~~its governing body.~~

36 (b) The division may enter into cooperative agreements with
37 agencies of the United States and federally recognized Native
38 American tribes.

39 (c) Grants and cooperative agreements may be awarded for the
40 planning, acquisition, development, maintenance,

1 administration, operation, enforcement, restoration, and
2 conservation of trails, trailheads, areas, and other facilities
3 associated with the use of off-highway motor vehicles, and
4 programs involving off-highway motor vehicle safety or
5 education.

6 (d) Grant and cooperative agreement applications shall be in
7 accordance with local or federal plans and any plans for
8 off-highway motor vehicle recreation prepared by the division.

9 (e) Notwithstanding subdivision (c), funds may be used for law
10 enforcement and repairing damage caused by the use of
11 off-highway motor vehicles on property being used by off-highway
12 motor vehicles where the operation of those vehicles is prohibited
13 by federal, state, or local law.

14 (f) Notwithstanding subdivision (c), grants may be awarded to
15 educational institutions and nonprofit organizations for eligible
16 projects that are designed to sustain a managed off-highway motor
17 vehicle recreation program. Eligible projects shall be limited to
18 scientific research, natural resource conservation activities, as
19 defined in Section 5090.10, cultural resource conservation
20 activities, and programs involving off-highway motor vehicle
21 safety or education. If the application for grant funds involves
22 activities on any public lands, the applicant shall obtain approval
23 from the affected land management agency and submit that
24 approval with the application for grant funds. All projects shall
25 comply with the requirements of subdivisions (g) and (h).

26 (g) Every applicant for a grant shall comply with the California
27 Environmental Quality Act (Division 13 (commencing with
28 Section 21000)). The division shall ensure that all cooperative
29 agreement applications have completed environmental review
30 procedures that are at least comparable to those of the California
31 Environmental Quality Act.

32 (h) All cooperative agreements shall be subject to the uniform
33 application of soil, wildlife, and wildlife habitat protection
34 standards specified in Section 5090.53.

35 (i) Subdivision (h) does not apply to applicants that apply
36 solely for law enforcement funding.

37 (j) No grant may be made or cooperative agreement entered
38 into under this section without the approval of the commission.

39 SEC. 28. Section 5090.52 of the Public Resources Code is
40 repealed.

~~5090.52. No grant may be made pursuant to Section 5090.50 unless the governing body of the applicant has, by resolution, approved the facility.~~

SEC. 29. Section 5090.53 of the Public Resources Code is amended to read:

5090.53. (a) Money in the fund may be granted ~~pursuant to Section 5090.50~~ or expended pursuant to Section ~~5090.55~~ 5090.50 for projects to fulfill the conditions outlined below and for public health and safety facilities.

(b) However, no funds may be granted ~~pursuant to Section 5090.50~~ or encumbered pursuant to Section ~~5090.55~~ 5090.50 for the acquisition of land for, or the development ~~or construction~~ of, a ~~new~~ trail, trailhead, area, or other facility for the use of off-highway motor vehicles after July 1, 1989, unless all of the following conditions are met:

(1) The recipient has completed wildlife habitat and soil surveys and has prepared a wildlife habitat protection program to sustain a viable species composition for the project area.

(2) The recipient agrees to monitor the condition of soils and wildlife in the project area each year in order to determine whether the soil loss standard adopted pursuant to Section 5090.35 and the wildlife habitat protection programs are being met.

(3) The recipient agrees that, whenever the soil loss standard adopted pursuant to Section 5090.35 and the wildlife habitat protection programs are not being met in any project area, the recipient will temporarily close and repair, to prevent accelerated erosion, that area, or any portion thereof, until the soil loss standard adopted pursuant to Section 5090.35 and the wildlife habitat protection program are capable of being met.

(4) The recipient agrees to enforce the registration of off-highway motor vehicles and the other provisions of Division 16.5 (commencing with Section 38000) of the Vehicle Code and to enforce the other applicable laws regarding the equipping and use of off-highway motor vehicles.

SEC. 30. Section 5090.55 of the Public Resources Code is repealed.

~~5090.55. (a) Any moneys in the fund allocated pursuant to subdivision (a) of Section 5090.61 and not appropriated for local assistance grants pursuant to Section 5090.50, shall be available for appropriation to the division for expenditure pursuant to~~

1 ~~cooperative agreements with agencies of the United States or~~
2 ~~federally recognized Indian reservations for any joint undertaking~~
3 ~~of any function that the division is authorized by this chapter to~~
4 ~~perform.~~

5 ~~(b) No cooperative agreement shall become effective until the~~
6 ~~division has determined that the participating agency of the United~~
7 ~~States has completed environmental review procedures that are at~~
8 ~~least comparable to those of the California Environmental Quality~~
9 ~~Act (Division 13 (commencing with Section 21000)).~~

10 ~~(c) All new acquisitions, development projects, and~~
11 ~~cooperative agreements shall be subject to the uniform application~~
12 ~~of soil, wildlife, and habitat protection standards required at state~~
13 ~~vehicular recreation areas.~~

14 *SEC. 31. Section 5090.56 of the Public Resources Code is*
15 *repealed.*

16 ~~5090.56. (a) Notwithstanding Sections 5090.50 and~~
17 ~~5090.55, grants may be made to cities, counties, appropriate~~
18 ~~districts, and nonprofit corporations for safety education~~
19 ~~programs.~~

20 ~~(b) Up to three hundred thousand dollars (\$300,000) of the~~
21 ~~funds allocated each fiscal year shall be available for off-highway~~
22 ~~vehicle safety education program purposes, subject to~~
23 ~~appropriation in the annual Budget Act.~~

24 ~~(c) In making grants or entering into cooperative agreements or~~
25 ~~contracts under this section, the department shall give priority to~~
26 ~~applications for safety programs which demonstrate the~~
27 ~~following:~~

28 ~~(1) Cost efficiency.~~

29 ~~(2) The availability of private capital, and the potential for the~~
30 ~~project to become financially self-supporting for future safety~~
31 ~~programs.~~

32 ~~(3) Instruction to the largest number of users.~~

33 ~~(4) Geographical distribution.~~

34 ~~(5) User-group involvement and support.~~

35 ~~(6) Emphasis on junior operators and on a variety of vehicle~~
36 ~~types.~~

37 ~~(d) Grants for safety programs shall require matching funds, or~~
38 ~~the equivalent value of services or materials, in an amount not less~~
39 ~~than 25 percent of the total expense of the program.~~

~~(c) No grant may be made or cooperative agreement or contract entered into under this section without the approval of the commission.~~

SEC. 32. Section 5090.60 of the Public Resources Code is amended to read:

5090.60. The fund consists of deposits from the following sources:

(a) Revenues transferred from the Motor Vehicle Fuel Account in the Transportation Tax Fund.

(b) Fees paid pursuant to subdivision (b) of Section 38225 of the Vehicle Code.

(c) Unexpended service fees.

(d) Fees and other proceeds collected at state vehicular recreation areas, as provided in subdivision (c) of Section 5010.

~~(e) Fines and forfeitures, as provided in Section 42204 of the Vehicle Code.~~

~~(f) Reimbursements.~~

~~(g)~~

(f) Revenues and income from any other source required by law to be deposited in the fund.

SEC. 33. Section 5090.61 of the Public Resources Code is amended to read:

5090.61. Money in the fund shall be available, upon appropriation *by the Legislature*, for allocation by the commission as follows:

(a) An amount, not to exceed 50 percent of the revenues from the special fee required by subdivision (b) of Section 38225 of the Vehicle Code, the revenues transferred from the Motor Vehicle Fuel Account, and revenue received from interest, is available for local assistance grants *or cooperative agreements* pursuant to Article 5 (commencing with Section 5090.50). ~~Any portion of this amount not granted to local public agencies shall be available to the division for cooperative agreements with agencies of the United States pursuant to Section 5090.55.~~

(b) The remainder of the revenues from the special fee required by subdivision (b) of Section 38225 of the Vehicle Code and the remainder of the revenues transferred from the Motor Vehicle Fuel Account, together with all other moneys in the fund, shall be available for the support of the division in implementing the program and for the planning, acquisition, development,

1 construction, maintenance, administration, operation, and
2 conservation of lands in the system. As used in this subdivision,
3 “support of the division” includes functions performed outside
4 the division by others on behalf of the division, including costs
5 incurred on behalf of the division for personnel management and
6 training, accounting and fiscal analysis, records, purchasing,
7 public information activities, consultation of professional
8 scientists and reclamation experts for purposes of Section
9 5090.35, and legal services.

10 “Support of the division” does not include any costs incurred
11 by, or attributable to, the director or the director’s immediate staff
12 or their salaries.

13 *SEC. 34. Section 5090.62 of the Public Resources Code is*
14 *repealed.*

15 ~~5090.62. No money in the fund may be encumbered for the~~
16 ~~planning, development, maintenance, operation, administration,~~
17 ~~or conservation of any natural or cultural preserve or any state~~
18 ~~wilderness classified pursuant to subdivision (e) of Section~~
19 ~~5090.43, except that the cost of erecting fences or barriers and~~
20 ~~posting and otherwise designating a preserve or wilderness may be~~
21 ~~met from money appropriated from the fund if that cost is incurred~~
22 ~~prior to, or contemporaneously with, the opening of the state~~
23 ~~vehicular recreation area to public use.~~

24 *SEC. 35. Section 5090.64 of the Public Resources Code is*
25 *amended to read:*

26 5090.64. (a) ~~Funds~~ *Thirty percent of the funds* allocated
27 pursuant to Section 8352.8 of the Revenue and Taxation Code shall
28 be expended ~~by the division or by cities, counties, or appropriate~~
29 ~~districts, or by agencies of the United States,~~ solely for the
30 ~~following activities on lands in the system:~~ *restoration activities,*
31 *as defined in Section 5090.11.*

32 (b) *Seventy percent of the funds allocated pursuant to Section*
33 *8352.8 of the Revenue and Taxation Code shall be expended solely*
34 *for the following activities related to the use of off-highway motor*
35 *vehicles:*

36 (1) Conservation activities carried out for the prevention or
37 reduction of soil loss, wildlife loss, and habitat loss as ~~defined~~
38 ~~described~~ in Sections 5090.10, 5090.35, 5090.50, and 5090.53.

39 (2) Enforcement activities consisting of employing, equipping,
40 and supervising ~~peace officers~~ *law enforcement personnel* for the

1 purpose of protecting natural *and cultural* resources, enforcement
2 of Division 16.5 (commencing with Section 38000) of the Vehicle
3 Code, enforcement of Sections 4442 and 4442.5 of this code, and
4 enforcement of other laws regulating the equipment and use of
5 off-highway motor vehicles, ~~and the construction of physical~~
6 ~~barriers and other means of traffic control.~~

7 ~~(b) This section shall become operative July 1, 1998.~~

8 *(3) The construction of physical barriers and other means of*
9 *traffic control regulating the use of off-highway motor vehicles.*

10 *SEC. 36. Section 8352.8 of the Revenue and Taxation Code is*
11 *amended to read:*

12 8352.8. (a) The Conservation and Enforcement Services
13 Account is hereby established as an account in the Off-Highway
14 Vehicle *Trust* Fund. Subject to Sections 8352 and 8352.1, on the
15 first day of every month there shall be transferred from money
16 deposited in the Motor Vehicle Fuel Account to the Conservation
17 and Enforcement Services Account ~~33 percent of the total amount~~
18 ~~determined on the basis of the estimates contained in the most~~
19 ~~recent reports prepared pursuant to Sections 8352.6, 8352.7, and~~
20 ~~this section.~~

21 (b) On or before August 15, 1987, and every two years
22 thereafter, the Department of Transportation shall prepare, or
23 cause to be prepared, in cooperation with the Department of Parks
24 and Recreation, a report setting forth the current estimate of the
25 amount of money credited to the Motor Vehicle Fuel Account that
26 is attributable to taxes imposed upon distributions of motor vehicle
27 fuel estimated to have been used in the off-highway operation of
28 vehicles required to be registered as off-highway vehicles by
29 Division 16.5 (commencing with Section 38000) of the Vehicle
30 Code, but which were not so registered, and shall submit a copy
31 of the report to the Legislature.

32 (c) Funds in the Conservation and Enforcement Services
33 Account shall be allocated to the Division of Off-Highway Motor
34 Vehicle Recreation of the Department of Parks and Recreation for
35 expenditure when appropriated by the Legislature for the purposes
36 of Section 5090.64 of the Public Resources Code.

37 ~~(d) Funds accruing to the Motor Vehicle Fuel Account on and~~
38 ~~after January 1, 1987, which are otherwise subject to Section~~
39 ~~8352.6, shall, until the first day of the month following the month~~
40 ~~in which an estimate is prepared pursuant to subdivision (b), be~~

~~transferred to the Off-Highway Vehicle Fund in accordance with~~
~~Section 8352.6. On or before January 1, 2005, the Division of~~
~~Off-Highway Motor Vehicle Recreation in the Department of~~
~~Parks and Recreation shall submit a report to the Legislature that~~
~~identifies the appropriate level of funding necessary to sustain~~
~~conservation and enforcement needs, grant areas, state vehicular~~
~~recreation areas, capital outlay, and division support, based upon~~
~~an analysis of program income and expenditures during the~~
~~preceding five fiscal years and the fundings contained in the most~~
~~recent fuel tax study.~~

SEC. 37. Section 38001 of the Vehicle Code is amended to read:

38001. (a) Except as otherwise provided, this division applies to off-highway motor vehicles, as defined in Section 38006, on lands, other than a highway, ~~which~~ *that* are open and accessible to the public, including any land acquired, developed, operated, or maintained, in whole or in part, with money from the Off-Highway Vehicle *Trust* Fund, except private lands under the immediate control of the owner or his *or her* agent where permission is required and has been granted to operate a motor vehicle. For purposes of this division, the term “highway” does not include fire trails, logging roads, service roads regardless of surface composition, or other roughly graded trails and roads upon which vehicular travel by the public is permitted.

(b) Privately owned and maintained parking facilities that are generally open to the public are exempt from this division, unless the facilities are specifically declared subject to this division by the procedure specified in Section 21107.8.

SEC. 38. Section 38007 of the Vehicle Code is amended to read:

38007. ~~The Off-Highway Motor Vehicle Recreation Division of the Department of the California Highway Patrol may prepare a course~~ *Parks and Recreation shall adopt courses of instruction in off-highway motor vehicle safety, operation, and principles of environmental preservation, and for by January 1, 2005. For this purpose may the division shall consult with the Department of the California Highway Patrol and other public and private agencies and or organizations. The department may division shall make this course of instruction available to any association or organization desirous of presenting the course to any of its members or other*

1 ~~members of the public who express an interest to attend directly,~~
2 ~~through contractual agreement, or through volunteers authorized~~
3 ~~by the division to conduct a course of instruction.~~

4 SEC. 39. Section 38026 of the Vehicle Code is amended to
5 read:

6 38026. (a) In addition to Section 38025 and after complying
7 with subdivision (c) *of this section*, if a local authority, an agency
8 of the federal government, or the Director of Parks and Recreation
9 finds that a highway, or a portion thereof, under the jurisdiction of
10 the authority, agency, or the director, as the case may be, is located
11 in ~~such a manner as to provide~~ *that provides* a connecting link
12 between off-highway motor vehicle trail segments, between an
13 off-highway motor vehicle recreational use area and necessary
14 service facilities, or between lodging facilities and an off-highway
15 motor vehicle recreational facility and if it is found that the
16 highway is designed and constructed so as to safely permit the use
17 of regular vehicular traffic and also the driving of off-highway
18 motor vehicles on that highway, the local authority, by resolution
19 or ordinance, agency of the federal government, or the Director of
20 Parks and Recreation, as the case may be, may designate that
21 highway, or a portion thereof, for combined use and shall prescribe
22 rules and regulations therefor. No highway, or portion thereof,
23 shall be so designated for a distance of more than three miles. No
24 freeway shall be designated under this section.

25 (b) The Off-Highway Motor Vehicle Recreation Commission
26 may propose highway segments for consideration by local
27 authorities, an agency of the federal government, or the Director
28 of Parks and Recreation for combined use.

29 (c) Prior to designating a highway or portion thereof on the
30 motion of the local authority, an agency of the federal government,
31 or the Director of Parks and Recreation, or as a recommendation
32 of the Off-Highway Motor Vehicle Recreation Commission, a
33 local authority, an agency of the federal government, or the
34 Director of Parks and Recreation shall notify the Commissioner of
35 the California Highway Patrol, and shall not designate any
36 segment pursuant to subdivision (a) which, in the opinion of the
37 commissioner, would create a potential traffic safety hazard.

38 (d) A designation of a highway, or a portion thereof, under
39 subdivision (a) shall become effective upon the erection of

appropriate signs of a type approved by the Department of Transportation on and along the highway, or portion thereof.

The cost of the signs shall be reimbursed from the Off-Highway Vehicle *Trust* Fund, when appropriated by the Legislature, or by expenditure of funds from a grant *or cooperative agreement* made pursuant to Section 5090.50 of the Public Resources Code.

SEC. 40. Section 38225 of the Vehicle Code is amended to read:

38225. (a) A service fee of seven dollars (\$7) shall be paid to the department for the issuance or renewal of identification of off-highway motor vehicles subject to identification, except as expressly exempted under this division.

(b) In addition to the service fee specified in subdivision (a), a special fee of eight dollars (\$8) shall be paid at the time of payment of the service fee for the issuance or renewal of an identification plate or device.

(c) All money transferred pursuant to Sections 8352.6 and 8352.7 of the Revenue and Taxation Code, all fees received by the department pursuant to subdivision (b), and all day use, overnight use, or annual or biennial use fees for state vehicular recreation areas received by the Department of Parks and Recreation, shall be deposited in the Off-Highway Vehicle Trust Fund, which is hereby created. There shall be a separate reporting of special fee revenues by vehicle type, including four-wheeled vehicles, three-wheelers, motorcycles, and snowmobiles. All money shall be deposited in the fund, which is a trust fund, and, upon appropriation by the Legislature, shall be allocated by the Off-Highway Motor Vehicle Recreation Commission, as provided in this section. Money in the fund shall be administered by the commission, as trustee of the fund, and, subject to Section 5090.61 of the Public Resources Code, shall be allocated for those purposes set forth in ~~Sections 38240 and 38240.1~~ *Section 5090.50 of the Public Resources Code.*

(d) Any money temporarily transferred by the Legislature from the Off-Highway Vehicle Trust Fund to the General Fund shall be reimbursed, without interest, by the Legislature within two fiscal years of the transfer.

(e) This section shall remain in effect only until January 1, 2007, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2007, deletes or extends that date.

1 Any unencumbered funds remaining in the Off-Highway Vehicle
2 Trust Fund on January 1, 2007, shall be transferred to the General
3 Fund.

4 *SEC. 41. Section 38231.5 of the Vehicle Code is amended to*
5 *read:*

6 38231.5. (a) The fee for a special permit issued under Section
7 38087.5 shall be not less than twenty dollars (\$20), as established
8 by the Department of Parks and Recreation. The Department of
9 Parks and Recreation may adjust the special permit fee for a permit
10 issued to a nonresident of this state under Section 38087.5, as
11 necessary, to recover the costs of this program. After deducting its
12 administrative and vendor costs, the Department of Parks and
13 Recreation shall deposit the fees received under this section in the
14 Off-Highway Vehicle Trust Fund. Money in the fund shall be
15 allocated, upon appropriation, as provided in Sections ~~38240 and~~
16 ~~38240.1~~ 5090.50 and 5090.64 of the Public Resources Code.

17 (b) The Department of Parks and Recreation shall print the
18 special permits required by Section 38087.5 and shall supervise
19 the sale of those permits throughout the state.

20 (c) The Department of Parks and Recreation shall either
21 distribute and sell the special permits directly or contract with
22 vendors according to rules and regulations established by that
23 department. The vendors shall receive a commission in an amount
24 not to exceed 5 percent of the fee imposed pursuant to subdivision
25 (a) for each special permit sold. The Department of Parks and
26 Recreation may solicit the participation of qualified retail
27 commercial enterprises engaged in the sale or rental of
28 off-highway vehicles, equipment, accessories, or supplies to act as
29 authorized vendors of the special permits and may authorize local
30 and federal agencies that provide off-highway vehicle
31 opportunities to act as authorized vendors of the special permits.

32 *SEC. 42. Section 38240 of the Vehicle Code is amended to*
33 *read:*

34 38240. (a) The Controller shall allocate the fees collected
35 under Section 38230 in July and January of each fiscal year in the
36 same manner as fees are allocated under subdivisions (c) and (d)
37 of Section 11005 of the Revenue and Taxation Code.

38 (b) The funds collected under Section 38230 shall be used for
39 ~~any one or more of the following purposes:~~

1 ~~(1) Planning, acquiring, developing, constructing,~~
2 ~~maintaining, administering, operating, or conserving trails, areas,~~
3 ~~or other facilities for the use of off-highway motor vehicles.~~

4 ~~(2) Controlling the operation of motor vehicles in areas off the~~
5 ~~highways where the operation of motor vehicles is restricted or~~
6 ~~prohibited.~~

7 ~~(3) Otherwise carrying out the provisions of this division. the~~
8 ~~purposes set forth in Sections 5090.50 and 5090.64 of the Public~~
9 ~~Resources Code.~~

10 (c) Funds received by a city or county pursuant to this section
11 may be expended for facilities located outside the limits of the city
12 or county if both of the following conditions are met:

13 (1) The funds are expended for the purposes of acquiring,
14 developing, and constructing trails, areas, or other facilities for the
15 use of off-highway motor vehicles.

16 (2) The funds are expended pursuant to agreement with the city
17 in which the facility is located or with the county in which the
18 facility is located if the facility is located in an unincorporated
19 territory.

20 *SEC. 43. Section 38240.1 of the Vehicle Code is repealed.*

21 ~~38240.1. In addition to the purposes specified in subdivision~~
22 ~~(b) of Section 38240, the funds collected under Section 38230 may~~
23 ~~also be used for reconstructing and repairing damage caused by the~~
24 ~~use of off-highway motor vehicles on property where the~~
25 ~~operation of those vehicles is prohibited by federal, state, or local~~
26 ~~law.~~

27 *SEC. 44. Section 38286 of the Vehicle Code is amended to*
28 *read:*

29 38286. The provisions of Article 3 (commencing with Section
30 38305), Article 4 (commencing with Section 38312), Article 5
31 (commencing with Section 38316), and Section 38319 of this
32 chapter, and subdivision (h) of Section 38370 shall not apply to a
33 motor vehicle being operated in an organized racing event which
34 that is conducted under the auspices of a recognized sanctioning
35 body or by permit issued by the governmental authority having
36 jurisdiction.

37 *SEC. 45. Section 38370 of the Vehicle Code is amended to*
38 *read:*

39 38370. (a) The Department of Motor Vehicles shall not
40 identify any new off-highway motor vehicle, which is subject to

1 identification and which produces a maximum noise level that
2 exceeds the following noise limit, at a distance of 50 feet from the
3 centerline of travel, under test procedures established by the
4 Department of the California Highway Patrol.

- 5
6 (1) Any such vehicle manufactured before January 1, 1973 . . . 92 dbA
7 (2) Any such vehicle manufactured on or after January 1,
8 1973, and before January 1, 1975 88 dbA
9 (3) Any such vehicle manufactured on or after January 1,
10 1975, and before January 1, 1986 86 dbA
11 (4) Any such vehicle manufactured on or after January 1,
12 1986 82 dbA
13

14 (b) The department may accept a dealer's certificate as proof
15 of compliance with this section.

16 (c) Test procedures for compliance with this section shall be
17 established by the Department of the California Highway Patrol,
18 taking into consideration the test procedures of the Society of
19 Automotive Engineers.

20 (d) No person shall sell or offer for sale any new off-highway
21 motor vehicle which is subject to identification and which
22 produces a maximum noise level that exceeds the noise limits in
23 subdivision (a), and for which noise emission standards or
24 regulations have not been adopted by the Administrator of the
25 Environmental Protection Agency pursuant to the Federal Noise
26 Control Act of 1972 (P.L. 92-574).

27 (e) No person shall sell or offer for sale any new off-highway
28 motor vehicle which is subject to identification and which
29 produces a noise level that exceeds, or in any way violates, the
30 noise emission standards or regulations adopted for such a motor
31 vehicle by the Administrator of the Environmental Protection
32 Agency pursuant to the Federal Noise Control Act of 1972 (P.L.
33 92-574).

34 (f) As used in this section, the term "identify" is equivalent to
35 the term "licensing" as used in Section 6(e)(2) of the Federal
36 Noise Control Act of 1972 (P.L. 92-574).

37 (g) Any off-highway motor vehicle, when operating pursuant
38 to Section 38001, shall at all times be equipped with a silencer, or
39 other device, which limits noise emissions to not more than 101
40 dbA if manufactured on or after January 1, 1975, or 105 dbA if

1 manufactured before January 1, 1975, when measured from a
2 distance of 20 inches using test procedures established by the
3 Society of Automotive Engineers under Standard J-1287. *This*
4 *subdivision shall only be operative until January 1, 2003.*

5 (h) *On and after January 1, 2003, off-highway motor vehicles,*
6 *when operating pursuant to Section 38001, shall at all times be*
7 *equipped with a silencer, or other device, which limits noise*
8 *emissions.*

9 (1) *Noise emissions of competition off-highway vehicles*
10 *manufactured on or after January 1, 1998, shall be limited to not*
11 *more than 96 dbA, and if manufactured prior to January 1, 1998,*
12 *to not more than 101 dbA, when measured from a distance of 20*
13 *inches using test procedures established by the Society of*
14 *Automotive Engineers under Standard J-1287, as applicable.*
15 *Noise emissions of all other off-highway vehicles shall be limited*
16 *to not more than 96 dbA if manufactured on or after January 1,*
17 *1986, and not more than 101 dbA if manufactured prior to January*
18 *1, 1986, when measured from a distance of 20 inches using test*
19 *procedures established by the Society of Automotive Engineers*
20 *under Standard J-1287, as applicable.*

21 (2) *The Off-Highway Motor Vehicle Recreation Division of the*
22 *Department of Parks and Recreation shall evaluate and reassess*
23 *the dates specified in paragraph (1) and include the findings and*
24 *recommendations in the noise report required in subdivision (o) of*
25 *Section 5090.32 of the Public Resources Code.*

26 (i) *Off-highway vehicle manufacturers or their agents prior to*
27 *the sale to the general public in California of any new off-highway*
28 *vehicle model manufactured after January 1, 2003, shall provide*
29 *to the Off-Highway Motor Vehicle Recreation Division of the*
30 *California Department of Parks and Recreation rpm data needed*
31 *to conduct the J-1287 test, where applicable.*

32 SEC. 46. *Section 42204 of the Vehicle Code is amended to*
33 *read:*

34 42204. Notwithstanding any other provisions of law, 50
35 ~~percent of all fines and forfeitures collected for violations of~~
36 ~~Division 16.5 (commencing with Section 38000) shall be~~
37 ~~deposited in the Off-Highway Vehicle Fund for expenditure~~
38 ~~pursuant to Article 6 (commencing with Section 5090.60) of~~
39 ~~Chapter 1.25 of Division 5 of the Public Resources Code, and 50~~
40 ~~percent of such fines and forfeitures shall be deposited and~~

1 ~~distributed in the same manner as specified in Section 42201.5~~
2 ~~appropriate fund in the county where the violation occurred and~~
3 ~~distributed in the same manner as specified in Section 42201.5,~~
4 ~~and shall be used for enforcing laws related to the operation of~~
5 ~~off-highway motor vehicles.~~
6 ~~is amended to read:~~
7 ~~5090.19. The members of the commission shall elect a~~
8 ~~chairman from their number who shall serve as chairman for a term~~
9 ~~of one year, and the chairman shall continue to serve beyond the~~
10 ~~initial one-year term until his or her successor is elected.~~

